

# CHESAPEAKE BAY TMDL ALLOCATIONS

## EPA Communications with Jurisdictions

### EPA – DELAWARE COMMUNICATIONS

From: "Bunting-Howarth Katherine E. (DNREC)" <Katherine.Howarth@state.de.us>

To: Katherine Antos/CBP/USEPA/US@EPA, "Volk Jennifer A. (DNREC)" <Jennifer.Volk@state.de.us>

Cc: "Schneider John W. (DNREC)" <John.Schneider@state.de.us>, Patricia Gleason/R3/USEPA/US, Jon Capacasa/R3/USEPA/US@EPA

Date: 12/15/2010 08:30 AM

**Subject: RE: DE response requested by COB Wed: Which NPS sector should receive DE's spare allocation**

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Delaware would like to give the loads to the non-point source agriculture.

Thanks,  
Kathy

Katherine E. Bunting-Howarth  
Director, Division of Water  
Delaware Department of Natural Resources and Environmental Control  
89 Kings Highway  
Dover, DE 19901  
phn: (302)739-9949  
fax: (302)739-7864

-----Original Message-----

From: Antos.Katherine@epamail.epa.gov [mailto:Antos.Katherine@epamail.epa.gov]  
Sent: Tuesday, December 14, 2010 6:22 PM

To: Volk Jennifer A. (DNREC); Bunting-Howarth Katherine E. (DNREC)  
Cc: Schneider John W. (DNREC); Gleason.Patricia@epamail.epa.gov;  
Capacasa.Jon@epamail.epa.gov  
Subject: DE response requested by COB Wed: Which NPS sector should receive DE's spare allocation

Good evening Jenn and Kathy -

Apologies for the quick turnaround, but I'm hoping this is an easy question (and a good one to have!). As you are aware, Delaware's WIP came in below the state's nitrogen, phosphorus and sediment allocation due to your excellent work on the input deck. However, EPA is still going to establish a TMDL that exactly hits the basin-jurisdiction nutrient and sediment allocations announced in July and August.

Therefore, we need to know from you which NPS sector should receive this allocation. We have 3 options:

1. Give it back to non-point source agriculture (This is EPA's default option if a jurisdiction does not have a preference)
2. Give it back proportionally to all non-point source sectors (Load Allocations) - agriculture and septic - based on their share of the load so that no one sector benefits more than another. I am not including urban since, per your WIP, all of the urban loads are in the WLA.
3. Give it back to a "reserve" in either the WLA or LA

Given that we are in the final stages of assembling TMDL tables, we need a response by COB tomorrow (Wednesday). Should we not hear from you, we will give this spare allocation back to the ag LA. Please don't hesitate to call me tomorrow if you have questions. I will be at my desk b/t 10 and 12, 1 and 3, and after 4.

All the best,  
Katherine

Katherine Wallace Antos  
Chesapeake Bay Program Office  
U.S. Environmental Protection Agency  
410 Severn Ave., Suite 112  
Annapolis, MD 21403

(410) 295-1358

## **EPA-DISTRICT OF COLUMBIA COMMUNICATIONS**

**Re: Blue Plains permit limit vs the Blue Plains DC portion WLA in DC WIP**

**Katherine** to: Ning Zhou  
**Antos**

12/23/2010 10:51  
AM

Cc: Brian Trulear, David McGuigan, Deane Bartlett, Evelyn MacKnight, Jennifer Sincock, Jon Capacasa, Kelly Gable, Mary Letzkus, Reginald Parrish, Robert Koroncai

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Ok. Jon thinks he has an email to ok this change. Please increase the BP WLA to the permit limit and adjust the reserve down so that DC still meets its jurisdiction-wide allocation (Chris/Sucharith can give you DC's allocation).  
Thanks.

Katherine Wallace Antos  
Chesapeake Bay Program Office  
U.S. Environmental Protection Agency  
410 Severn Ave., Suite 112  
Annapolis, MD 21403

(410) 295-1358

\*\*\*\*\*

From: Ning Zhou/CBP/USEPA/US

To: Katherine Antos/CBP/USEPA/US@EPA

Cc: Reginald Parrish/DC/USEPA/US@EPA, Brian Trulear/R3/USEPA/US@EPA, David McGuigan/R3/USEPA/US@EPA, Deane Bartlett/R3/USEPA/US@EPA, Evelyn MacKnight/R3/USEPA/US@EPA, Jennifer Sincock/R3/USEPA/US@EPA, Jon Capacasa/R3/USEPA/US@EPA, Kelly Gable/R3/USEPA/US@EPA, Mary Letzkus/R3/USEPA/US@EPA, Robert Koroncai/R3/USEPA/US@EPA

Date: 12/23/2010 10:45 AM

Subject: Re: Blue Plains permit limit vs the Blue Plains DC portion WLA in DC WIP

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Yes, we have enough reserve for TP and TSS as well.

Ning

\*\*\*\*\*

To: Reginald Parrish/DC/USEPA/US@EPA  
From: Katherine Antos/CBP/USEPA/US  
Date: 12/23/2010 09:36AM  
Cc: Brian Trulear/R3/USEPA/US@EPA, David McGuigan/R3/USEPA/US@EPA, Deane Bartlett/R3/USEPA/US@EPA, Evelyn MacKnight/R3/USEPA/US@EPA, Jennifer Sincock/R3/USEPA/US@EPA, Jon Capacasa/R3/USEPA/US@EPA, Kelly Gable/R3/USEPA/US@EPA, Mary Letzkus/R3/USEPA/US@EPA, Ning Zhou/CBP/USEPA/US@EPA, Robert Koroncai/R3/USEPA/US@EPA  
Subject: Re: Blue Plains permit limit vs the Blue Plains DC portion WLA in DC WIP

So your vote is to set the allocation based on the permit limit and adjust the reserve down.  
Others? We need to run by DC to let them know we're adjusting the reserve and get their email concurrence.

Ning - Can you confirm we have enough reserve for TP and TSS as well?

Katherine Wallace Antos  
Chesapeake Bay Program Office  
U.S. Environmental Protection Agency  
410 Severn Ave., Suite 112  
Annapolis, MD 21403

(410) 295-1358

\*\*\*\*\*

From: Reginald Parrish/DC/USEPA/US  
To: Ning Zhou/CBP/USEPA/US@EPA  
Cc: Brian Trulear/R3/USEPA/US@EPA, David McGuigan/R3/USEPA/US@EPA, Deane Bartlett/R3/USEPA/US@EPA, Evelyn MacKnight/R3/USEPA/US@EPA, Jennifer Sincock/R3/USEPA/US@EPA, Jon Capacasa/R3/USEPA/US@EPA, Katherine Antos/CBP/USEPA/US@EPA, Kelly Gable/R3/USEPA/US@EPA, Mary Letzkus/R3/USEPA/US@EPA, Robert Koroncai/R3/USEPA/US@EPA  
Date: 12/23/2010 09:29 AM  
Subject: Re: Blue Plains permit limit vs the Blue Plains DC portion WLA in DC WIP

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At the risk of sounding too simplistic, it's always been my understanding that we were more comfortable writing WLAs based on permit limits. It seems to me that this gives us more certainty.

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From: Ning Zhou/CBP/USEPA/US  
To: Jennifer Sincock/R3/USEPA/US@EPA  
Cc: Brian Trulear/R3/USEPA/US@EPA, David McGuigan/R3/USEPA/US@EPA, Deane Bartlett/R3/USEPA/US@EPA, Evelyn MacKnight/R3/USEPA/US@EPA, Jon Capacasa/R3/USEPA/US@EPA, Katherine Antos/CBP/USEPA/US@EPA, Kelly Gable/R3/USEPA/US@EPA, Mary Letzkus/R3/USEPA/US@EPA, Reginald Parrish/DC/USEPA/US@EPA, Robert Koroncai/R3/USEPA/US@EPA  
Date: 12/22/2010 10:01 PM  
Subject: Re: Blue Plains permit limit vs the Blue Plains DC portion WLA in DC WIP

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Jen,

I typed "9" upside down. Sorry. The difference is 49,837 lbs/yr.

MD and VA went strictly with the Blue Plains permit limit and the IMA splitting ratios in their WIPs. So, there is no issue with MD and VA for their portions of Blue Plain TMDL. DC developed their Blue Plain portion WIP input based on their own plan on outfall 002 and estimates on outfall 001, which in total is less than the permit limit's DC portion. And, DC wanted to keep their plan on Blue Plains but agreed that the Blue Plains TMDL would be based on the current permit and could be different from what they proposed.

Thanks,

Ning

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To: Ning Zhou/CBP/USEPA/US@EPA  
From: Jennifer Sincock/R3/USEPA/US  
Date: 12/22/2010 08:38PM  
Cc: Brian Trulear/R3/USEPA/US@EPA, David McGuigan/R3/USEPA/US@EPA, Deane Bartlett/R3/USEPA/US@EPA, Evelyn MacKnight/R3/USEPA/US@EPA, Jon Capacasa/R3/USEPA/US@EPA, Katherine Antos/CBP/USEPA/US@EPA, Kelly Gable/R3/USEPA/US@EPA, Mary Letzkus/R3/USEPA/US@EPA, Reginald Parrish/DC/USEPA/US@EPA, Robert Koroncai/R3/USEPA/US@EPA  
Subject: Re: Blue Plains permit limit vs the Blue Plains DC portion WLA in DC WIP

Ning,

First is the difference 46,837 lbs/yr (text) or 49,837 lbs/yr (table)? Second, is DC the jurisdiction that is doing better and causing the Total WIP number to be less than the permit number? If not,

then would MD and VA be unhappy that they are not getting a share of this extra bit? I apologize if these are things already known by the group but I am coming into this cold. Thanks, Jen

Jennifer Sincock  
Office of Standards, Assessment, and TMDLs  
Water Protection Division  
U.S. EPA Region III  
1650 Arch Street (3WP30)  
Philadelphia, PA 19103  
(215) 814-5766

Interested in EPA's efforts to develop nutrient and sediment TMDLs for the Chesapeake Bay?

Learn more at: [www.epa.gov/chesapeakebaytmdl](http://www.epa.gov/chesapeakebaytmdl)

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From: Ning Zhou/CBP/USEPA/US  
To: Mary Letzkus/R3/USEPA/US@EPA, Brian Trulear/R3/USEPA/US@EPA, David McGuigan/R3/USEPA/US@EPA, Deane Bartlett/R3/USEPA/US@EPA, Evelyn MacKnight/R3/USEPA/US@EPA, Reginald Parrish/DC/USEPA/US@EPA, Robert Koroncai/R3/USEPA/US, Katherine Antos/CBP/USEPA/US@EPA, Jennifer Sincock/R3/USEPA/US@EPA, Kelly Gable/R3/USEPA/US@EPA, Jon Capacasa/R3/USEPA/US@EPA  
Date: 12/22/2010 08:20 PM  
Subject: Blue Plains permit limit vs the Blue Plains DC portion WLA in DC WIP

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All,

I just run into this data issue when I QA the final data for the TMDL tables. I discussed it with Katherine and she recommended to write to you all to get your opinions.

Since DC submitted their WIP input decks, we have noticed that the Blue Plains DC portion TN WLA specified in the DC WIP is slightly below (about 1%) the permit limit and meet the permit requirements. After discussion with DC on this issue, we ended up with the language in the DC WIP that said the Blue Plains TMDL will be based on current permit. But the TMDL numbers have not been processed until now when we are putting together the TMDL tables. Following table lists the WIP TN loads from DC, MD and VA WIPs as well as the current permit TN limit.

So, the total TN load of Blue Plains from all three jurisdictions is 46,837 lbs/yr less than the permit limit.

	TN Load (lbs/ry)
DC WIP	2,064,705
MD WIP	1,993,000

VA WIP	581,458
TOTAL WIP	4,639,163
Permit Limit	4,689,000
Difference	49,837

We have two options here.

Option A: Set the Blue Plain TMDL at the current permit limit as stated in the DC WIP. This option will involve adjusting the loads between DC Blue Plains and DC Reserve. Right now, DC Reserve has 86,646 lbs/yr TN. After adjustment, DC Reserve will be 36,810 lbs/yr TN.

Option B: Write the Blue Plain TMDL based on the WIPs from the three jurisdictions, which in total is 46,837 lbs/yr less than the current TN limit. This option will not touch the DC reserve.

What we discussed with DC was option A, but we did not touch the issue of the adjustment in the reserve for the final TMDL. Based on previous discussion with Monir on the TSS adjustment, he is OK with adjustment in the reserve.

Please let me know what you think we should do.

Thanks,

Ning

.....

From: Jon Capacasa/R3/USEPA/US  
To: "Chowdhury, Monir (DDOE)" <monir.chowdhury@dc.gov>  
Cc: James Edward/CBP/USEPA/US@EPA, Reginald Parrish/DC/USEPA/US@EPA  
Date: 12/21/2010 04:01 PM  
**Subject: RE: Checkin on Bay TMDL and WIP**

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Let's reserve 10:00 to 10:30 for this. I have a commitment right after this but sure we can cover the update by then,

THANKS<

Call in Number -

866-299-3188; access code 410-267-5705; leader pin 0021 (Jon or Reggie to do)

\*\*\*\*\*

From: "Chowdhury, Monir (DDOE)" <monir.chowdhury@dc.gov>  
To: Jon Capacasa/R3/USEPA/US@EPA  
Cc: James Edward/CBP/USEPA/US@EPA, Reginald Parrish/DC/USEPA/US@EPA, "Karimi, Hamid (DDOE)" <hamid.karimi@dc.gov>  
Date: 12/21/2010 02:57 PM  
Subject: RE: Checkin on Bay TMDL and WIP

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Jon

I am available tomorrow 10am-12pm. I will be out of the office rest of the week. Let me know which number to call.

Thanks

Monir

Monir Chowdhury, Ph.D., P.E.  
Chief, Planning and Enforcement Branch  
Water Quality Division  
District Department of the Environment  
1200 First Street, NE, 6th Floor  
Washington, D.C. 20002  
Tel: 202-535-2990  
Email: [monir.chowdhury@dc.gov](mailto:monir.chowdhury@dc.gov)  
[www.green.dc.gov](http://www.green.dc.gov)

\*\*\*\*\*

**From:** Karimi, Hamid (DDOE)  
**Sent:** Tuesday, December 21, 2010 2:28 PM  
**To:** Capacasa.Jon@epamail.epa.gov  
**Cc:** Chowdhury, Monir (DDOE); Edward.James@epamail.epa.gov; Parrish.Reginald@epamail.epa.gov  
**Subject:** RE: Checkin on Bay TMDL and WIP

Jon

I am out of the country without easy access to international phone. Monir will be following up on WIP issues.

Best, Hamid

\*\*\*\*\*

From: Capacasa.Jon@epamail.epa.gov [Capacasa.Jon@epamail.epa.gov]  
Sent: Tuesday, December 21, 2010 11:56 AM  
To: Karimi, Hamid (DDOE)  
Cc: Chowdhury, Monir (DDOE); Edward.James@epamail.epa.gov;  
Parrish.Reginald@epamail.epa.gov  
Subject: Checkin on Bay TMDL and WIP

Hamid - we are doing another round of checkin calls with the jurisdictions to share our plans for the final TMDL and communications about WIP evaluation findings.

Would like to do a call with you when convenient - hopefully tomorrow if a time permits.

I think you know most of not all of the details but wanted to just ensure there are no surprises when we go forward next week.

Let me know what would be a good time to connect - doesn't need to be more than a couple of us on the call - thanks.

.....

From:

Jon Capacasa/R3/USEPA/US

To:

Hamid Karimi <hamid.karimi@dc.gov>, Monir Chowdhury  
<monir.chowdhury@dc.gov>

Cc:

Katherine Antos/CBP/USEPA/US@EPA, Reginald  
Parrish/DC/USEPA/US@EPA, "Molloy, Aileen"  
<Aileen.Molloy@tetrattech.com>, "Sand, Sarah (DDOE)" <sarah.sand@dc.gov>,  
diane.davis@dc.gov, Ning Zhou/CBP/USEPA/US@EPA,  
jsweeney@chesapeakebay.net, Lucinda Power/DC/USEPA/US@EPA, Brian  
Trulear/R3/USEPA/US@EPA

Date:

12/13/2010 09:28 PM

**Subject:**

**Adjustment to TSS reserve in DC WIP**

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Hamid and Monir -

We have been reporting the results of DC's WIP input decks to you in terms of tons sediment (TSED). However, the TMDL and DC's August 13 sediment allocations are in terms of total suspended solids, or TSS. Given that TSS is slightly greater than TSED, DC's TSS allocations based on the 11/29 WIP are slightly greater than the high end of DC's TSS allocation. Therefore, would you like to request that EPA reduce your TSS reserve by 46,597 lbs/yr, so that the new reserve is 48,729 lbs/yr for TSS? Requesting this change would allow EPA to avoid having to apply a minor backstop allocation adjustment to reduce the District's TSS loads down to its allocation. This request would not require a separate input deck; we can make this change on our end and report the results to you.

Given that we are finalizing the TMDL allocation tables for the final TMDL document as we speak, I would greatly appreciate your response by COB tomorrow, Wednesday December 15. Many thanks for your ongoing cooperation and for providing us with this time-sensitive information. Please let me know if you have any questions.

Jon M. Capacasa, Director  
Water Protection Division  
EPA Region III

.....  
From:

Jon Capacasa/R3/USEPA/US

To: "Karimi, Hamid (DDOE)" <hamid.karimi@dc.gov>

Cc: Parrish.Reginald@epamail.epa.gov@EPA, David  
McGuigan/R3/USEPA/US@EPA, Katherine Antos/CBP/USEPA/US@EPA

Date: 12/06/2010 05:36 PM

**Subject: Ches Bay WIP permit assumptions**

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Hamid:

Thanks to you and your staff for the banner efforts working through and resolving our concerns

and big policy issues to move the WIP forward. As EPA staff review the November 29th WIP submission, I wanted to clarify with you previous negotiations and agreements related to the Blue Plains permit. EPA is conducting similar discussions with other Bay jurisdictions.

As EPA developed and finalized the 2010 Blue Plains NPDES permit, EPA informed DC Water that the discharges from outfall 001 would be treated as a CSO bypass in the WLA for the Bay TMDL. The WLA for Blue Plains is for Outfalls 001 and 002. In our negotiations with WASA, it was agreed that the WLA would be partitioned between 001 and 002 as follows: 001 portion of the WLA would be established based upon the wettest year during the ten year hydrological cycle and 002 would be assigned the balance of the WLA. 002 would have numerical effluent limits, while 001 would have only a monitoring provision. If monitoring results reveal that 001 is not meeting this assumption and is incorrect then EPA has committed to revisit the permit limits.

The language on page 34 of the November 29th WIP, proposes a performance-based approach which would assume loads based on average hydrology. The proposed approach in the WIP is not consistent with permit assumptions and the EPA agreement with DC Water. That said, the final Bay TMDL and the Blue Plains WLA will be based on upon the permit limits and their assumptions which have been agreed upon with DC Water.

I wanted to alert you of this issue early in the process and to assure that all is clear as to how EPA will make determinations for the TMDL. Please feel free to contact me or David McGuigan if you have any questions or need additional information.

Jon



## **EPA-MARYLAND COMMUNICATIONS**

From: Mike Fritz/CBP/USEPA/US  
To: Kelly Gable/R3/USEPA/US@EPA, Thomas Damm/CBP/USEPA/US@EPA  
Cc: Katherine Antos/CBP/USEPA/US@EPA, James Edward/CBP/USEPA/US@EPA  
Date: 12/22/2010 09:05 AM  
Subject: **MD WIP Addendum posted at MDE web site**

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Attached is the MD WIP addendum posted to the MDE web site yesterday.

*(See attached file: MD\_Phase\_I\_Plan\_Addendum\_12\_17\_2010.pdf)*  
Addendum to Maryland's Watershed Implementation Plan

Revision 1: December 13, 2010

This addendum corrects or revises the Watershed Implementation Plan submitted to EPA on Dec. 3, 2010 and is made a part thereof.

1. Section 4.3.1, page 4-6, paragraph 1:

Existing text: It shows a 4.37 million pound gap in achieving...

Revised text: It shows a 3.39 million pound gap in achieving...

2. Section 7.3(J), page 7-6

Existing text:

**J) Mandatory Cover Crops**  
Strategy

Require cover crops to be planted on the highest risk acres. Through a regulatory change, all acres that receive municipal or other sludge products, and all acres that receive manure or any other organic source of nutrients, would be required to plant a cover crop in the fall.

Revised text:

**J) Mandatory Cover Crops and Other Measures**

## Strategy

Through BayStat, Maryland commits to review and evaluate the pace and progress of agricultural BMP implementation at the end of 2013 and if agricultural targets are not met, explore new policy measures and mandatory BMP compliance options in a timely manner to ensure that reduction targets and water quality commitments will be met. An example of how this might be applied would be to require through a regulatory change that cover crops be planted on the highest risk acres (those that receive sludge or manure).

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From: James Edward/CBP/USEPA/US

To: "Rich Eskin" <reskin@mde.state.md.us>, Mike Fritz/CBP/USEPA/US@EPA

Cc: "Frank Dawson" <FDAWSON@dnr.state.md.us>, "John Griffin" <jgriffin@dnr.state.md.us>, "Jeff Horan" <JHORAN@dnr.state.md.us>, Kelly Shenk/CBP/USEPA/US@EPA, "Buddy Hance" <hanceef@mda.state.md.us>, "Royden Powell" <powellrn@mda.state.md.us>, "Bob Summers" <bsummers@mde.state.md.us>, "Shawn Garvin" <Garvin.Shawn@epamail.epa.gov>, "Chuck Cell" <fox.chuck@epa.gov>, "Katherine Antos" <Antos.Katherine@epamail.epa.gov>

Date: 12/10/2010 05:32 PM

Subject: Re: Ag reasonable assurance

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Rich et al. This sounds good. Thanks again. Jim

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Sent by EPA Wireless E-Mail Services. From Jim Edward 410-693-2748 cell

\*\*\*\*\*

From: "Rich Eskin" [reskin@mde.state.md.us]  
Sent: 12/10/2010 05:17 PM EST  
To: Mike Fritz; James Edward  
Cc: "Frank Dawson" <FDAWSON@dnr.state.md.us>; "John Griffin" <jgriffin@dnr.state.md.us>; "Jeff Horan" <JHORAN@dnr.state.md.us>; Kelly Shenk; "Buddy Hance" <hanceef@mda.state.md.us>; "Royden Powell" <powellrn@mda.state.md.us>; "Bob Summers" <bsummers@mde.state.md.us>  
Subject: Ag reasonable assurance

Per the agreement at our meeting on Dec. 9 at your offices, I have attached an approved "Addendum" to Maryland's watershed implementation plan that incorporates by reference additional reasonable assurance for action by Maryland by 2013 should we fall behind on agricultural pollution reduction.

I will proceed to have it posted on Maryland's web WIP page next week.

Richard Eskin, Director  
Science Services Administration  
Maryland Dept. of the Environment  
1800 Washington Blvd  
Baltimore, MD 21230  
ph. 410-537-3572  
fax 410-537-3873

## EPA-NEW YORK COMMUNICATIONS

**Re: NY allocation shift**

Christopher  
Day

Wednesday, December 22, 2010 02:39PM

From:

To: James Edward

Cc: Jeffrey Corbin, Jon Capacasa, Katherine Antos, Kelly Gable, Lucinda Power, Robert Wood, Ruth Izraeli

Works for me - Great job Jenny and Kevin.

\*\*\*\*\*

From: James Edward/CBP/USEPA/US

To: Katherine Antos/CBP/USEPA/US@EPA, Christopher Day/R3/USEPA/US@EPA, Jon Capacasa/R3/USEPA/US@EPA, Kelly Gable/R3/USEPA/US@EPA, Robert Wood/DC/USEPA/US@EPA, Jeffrey Corbin/R3/USEPA/US@EPA

Cc: Lucinda Power/DC/USEPA/US@EPA, Ruth Izraeli/R2/USEPA/US@EPA

Date: 12/22/2010 12:20 PM

Subject: Re: NY allocation shift

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Fine with me. Thanks. Jim

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Sent by EPA Wireless E-Mail Services. From Jim Edward 410-693-2748 cell

From: Katherine Antos

Sent: 12/22/2010 11:56 AM EST

To: James Edward; Christopher Day; Jon Capacasa; Kelly Gable; Robert Wood; Jeffrey Corbin

Cc: Lucinda Power; Ruth Izraeli

Subject: Fw: NY allocation shift

Thanks Jenny. All - is this what we need to signal agreement with NY on agreeing to the SW shift?

I'm good if you all are.

Katherine Wallace Antos  
Chesapeake Bay Program Office  
U.S. Environmental Protection Agency  
410 Severn Ave., Suite 112  
Annapolis, MD 21403

(410) 295-1358

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To: Kevin Bricke/R2/USEPA/US@EPA, Jennifer Molloy/DC/USEPA/US@EPA  
From: "Angus Eaton" <akeaton@gw.dec.state.ny.us>  
Date: 12/22/2010 09:00AM  
Cc: Ruth Izraeli/R2/USEPA/US@EPA, "Jacqueline Lendrum" <jmlendru@gw.dec.state.ny.us>, "Peter Freehafer" <pbfreeha@gw.dec.state.ny.us>, "Ron Entringer" <raentrin@gw.dec.state.ny.us>  
Subject: Re: NY allocation shift

Kevin,  
New York agrees the following is appropriate.  
Angus

Angus Eaton  
NYS Dept of Environmental Conservation  
625 Broadway  
Albany, NY 12233-3505  
518 402 8132

\*\*\*\*\*

>>> <Molloy.Jennifer@epamail.epa.gov> 12/21/2010 9:43 AM to "Angus Eaton" <akeaton@gw.dec.state.ny.us> >>>

Angus: If the following is an accurate representation of our discussion then I'll run this by Katherine before we make it official. Let me know if I mischaracterized anything. I'm open to any edits you want to suggest. If you're comfortable with it I'll send it to Katherine, and then send you back the 'official' version. Thanks, Jenny

The shift of 50% of the urban load allocation to wasteload allocation is intended to reflect the additional post-construction stormwater regulations that NY has imposed on nearly all new and redevelopment state-wide via the general permit for stormwater discharges from construction activities. EPA considers this a very robust aspect of New York's stormwater program, contributing significantly to reasonable assurance. The 50% shift is a reasonable estimate that can be further refined during the Phase II portion of WIP development.

Jenny Molloy

## **EPA-PENNSYLVANIA COMMUNICATIONS**

From: "Zemba, Andrew" <azemba@state.pa.us>  
To: Jon Capacasa/R3/USEPA/US@EPA, "Hines, John" <johines@state.pa.us>  
Cc: Suzanne Hall/R3/USEPA/US@EPA, Katherine Antos/CBP/USEPA/US@EPA, James Edward/CBP/USEPA/US@EPA, Chuck Fox/CBP/USEPA/US, "Buckley, Patricia" <pbuckley@state.pa.us>  
Date: 12/13/2010 04:00 PM  
Subject: **RE: Followup from Friday's Call - PA WIP and Allocation decision rules**

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Jon –

Thank you. We've had internal discussions, and the Deputy Secretary asked that I respond back as he continues to be caught up in a multitude of issues.

I've embedded replies below. If it would help continue to move the conversation forward, I can take the lead in a phone call at (717) 772-5633.

Andy Z

\*\*\*\*\*

**From:** Capacasa.Jon@epamail.epa.gov [mailto:Capacasa.Jon@epamail.epa.gov]  
**Sent:** Monday, December 13, 2010 9:18 AM  
**To:** Hines, John; Zemba, Andrew  
**Cc:** Hall.Suzanne@epamail.epa.gov; Antos.Katherine@epamail.epa.gov; Edward.James@epamail.epa.gov; Fox.Chuck@epamail.epa.gov  
**Subject:** Followup from Friday's Call - PA WIP and Allocation decision rules

John/Andy - this is to confirm the brief conversation we had on Friday afternoon December 10 to get PA DEP's input on the decision rules for the final allocation in the Bay TMDL. The PA WIP8 scenario run results were also shared with you over the weekend with a request for response as soon as possible to the exchange of N and P option. As you know the lower but still significant gap in P target load attainment needs our immediate attention.

On Friday, we discussed:

**Spare Allocation** - If the latest Scenario Runs show a "Spare" or extra pounds beyond the target allocations, how should EPA handle these.



PA response: Would be OK if these were put in Reserve for Phase II and beyond, i.e. not distributed back to any particular sector at this time **12/13/2010: We are still OK with this approach. I believe this applies to the three watersheds other than the Susquehanna.**

**Final Gap Closing if Over the Target Allocation** - if the PA WIP is determined to be close to the allocation for a pollutant (for example in the range of 0-5%) then how should EPA adjust the allocation to remove the gap for attainment of standards in that basin?

PA Response: Reduce NPS Loads from agriculture and Urban Sector (no room exists in the septic area) - do a proportional reduction of the other two NPS sectors. **12/13/2010: One quick question, did the runs include any of the air initiatives (e.g. Diesel Idling Rule?), we may have misunderstood that it was to be included in the deck data, we had seen a separate e-mail thinking it was handled that way. We know it won't close the nitrogen gap, but would like to have it recognized.**

**We would suggest that urban be looked at for this. Partially, it seems that we are so close (0.4%), that the overall approach looking to improve the stormwater program, combined with the cooperative effort we envision with you on improving the recognition of stormwater BMPs in the model, will help close the gap in future years, and improve decisions related to stormwater management in future years. We are looking for significant incremental changes over a period of time with this approach.**

#### **Load Shifting - WIP Request or EPA Backstop**

**Storm Water (Urban Loads) Sector** - EPA has evaluated the WIP in this area which we believe falls short of expectations for a WIP with adequate reasonable assurance. And significant issues remain unresolved in the regulatory program for storm water in PA. We therefore, intend to apply an adjustment to this sector so that 50% of the Urban Loads are provided with WLAs vs LAs in the final TMDL. This would be labeled as an EPA backstop though the adjustment does not automatically result in a specific regulatory action.

PA Response: Understands the issues and is committed to working with us to address the storm water program issues moving forward. Can live with the urban load shift. **12/13/2010: We are OK with the approach, our understanding is that this is not an automatic regulatory action; and we believe any EPA actions would be developed through an open discussion with key stakeholders provided the opportunity to provide input (the recent listening sessions seemed to be a first step). Our understanding is that the PA WIP would include the model run data, and EPA would mention this in the TMDL text, but we would not in the WIP text.**

**AFO/CAFO Loads** - the draft TMDL issued on September 24 put 100% of the AFO loads in the WLA column (treated as a "potential" point source). Recognizing that the PA WIP is considerably strengthened in strategies and reasonable assurance since then, EPA is proposing to shift only 50% of the AFO load to WLA in the final TMDL making up part of the reasonable assurance justification.



This is consistent with EPA actions in other states and in fact a couple of State WIPs have requested that 100% of the AFO load be placed in the WLA column. This recognizes that states have regulatory programs for AFOs which go beyond the federal CAFO program, and it also recognizes that requirements for AFOs can often mimic those for CAFOs.

EPA hopes that jurisdictions will achieve the load reductions identified in the WIP without additional actions from EPA. This shift signals that EPA is prepared to designate sources as necessary to ensure that nutrient and sediment controls identified in a jurisdiction's WIP are implemented. However, this is not a regulatory change in AFO status.

PA Response: Pending. [Should PA concur with this shift in the final TMDL, it would not be labeled as a backstopping action by EPA in the final TMDL.] **12/13/2010: This is one that we don't feel we would want to pursue. We would have a difficult time explaining environmental benefits from this change on paper, as we continue to feel the PA program is a model.**

If you would like to discuss any of this further, please let us know. I ask for your response as soon as doable to the final gap closing option for P loads and the AFO/CAFO load shift item -- thanks.

Jon

## EPA-VIRGINIA COMMUNICATIONS

From: "Moore, Anthony (GOV)" [Anthony.Moore@governor.virginia.gov]  
Sent: 12/13/2010 05:05 PM EST  
To: Jeffrey Corbin  
Cc: "Johnson, David (DCR)" <David.Johnson@dcr.virginia.gov>; "Paylor, David (DEQ)" <David.Paylor@deq.virginia.gov>  
**Subject: RE: Important - VA Confirmation Needed on Possible EPA TMDL Actions**

As requested.

### Generic Issues

- If there are “spare allocations” for nutrients and/or sediment in a particular basin within your jurisdiction (i.e. delivered loads from your WIP input deck are BELOW the basin’s July 1 allocations and the low end of the August 13 sediment range) to which nonpoint source sector(s) would you prefer that the spare allocations be transferred?
  1. Give it back proportionally to all non-point source sectors (Load Allocations) - agriculture, urban, and septic - so that no one sector benefits more than another (This is EPA’s default option if a jurisdiction does not have a preference)
  2. Give it back to non-point source agriculture
  3. Give it back to a “reserve” in either the WLA or LA

### Give it back proportionally

- If there are “gaps” for nutrients and/or sediment in a particular basin within your jurisdiction (i.e. delivered loads from your WIP input deck are ABOVE the basin’s July 1 allocations and the high end of the August 13 sediment range) from which nonpoint source sector would you prefer that EPA reduce the loads in order to meet the assigned allocations?
  1. Take it proportionally from the non-point source sectors (Load Allocations) - agriculture, urban, and septic - so that no one sector is singled out. (This is EPA’s default option if a jurisdiction does not have a preference)
  2. Take it from non-point source agriculture

Note - **We need to know your position on this** since we are considering no additional backstop actions for point sources

### Take it proportionally

### VA Specific Issues

⇒ TMDL Load Allocation to Wasteload Allocation Adjustments

Note – This is not a "backstop", but may be viewed as such by some parties, so I want to clarify our intent.

- EPA is proposing to shift 50% of urban stormwater or animal feeding operation (AFO) load allocations (LA) currently included in WIPs over to the wasteload allocation (WLA)
  - As you may recall, in the draft TMDL EPA shifted 100% of AFO loads over to the WLA. Due in part to improvements in your WIP, we are backing off this number to 50%.
  - This TMDL action does not initiate any immediate actions on the part of VA or permittees, but signals that EPA is prepared to take action, as necessary, in the future, to ensure that nutrient and sediment reductions identified in a jurisdiction's WIP are achieved
  - EPA preference remains that jurisdictions will achieve the load reductions through practices as identified in the WIP without additional actions from EPA.
  - This shift does not indicate that EPA is intending to designate 50% of AFOs or urban lands as requiring NPDES permits at this time.
  - Unlike the draft TMDL, this shift does not require more stringent retrofit requirements than what was proposed in the WIP.
  - Wasteload allocations for AFOs assume nutrient and sediment reductions that would be consistent with NPDES permit conditions (e.g., full treatment train of waste management, barnyard runoff control, and mortality composting).
    - VA already assumes most of these practices at very high implementation rates in the WIP.
    - EPA would assume the same levels of feed management as VA proposes in its WIP.

If needed, our preference would be to distribute the “shift” to the segment sheds proportionally with their percentages of WLAs.

This proposed TMDL action eliminates the backstops that were included in the draft TMDL. I trust that this approach would be palatable to VA **but I want to confirm such.**

- **Would you like to propose this adjustment as an addendum in your WIP, rather than having it as an allocation adjustment in the final TMDL?**
- In VA, this likely only applies to stormwater since the VA WIP already included that 100% of AFO loads would receive the full “treatment train” (waste management, barnyard runoff controls, and composting) and that all of these loads would be included in the WLA. **Please confirm this.**

Yes

Propose as adjustments in the TMDL

⇒ Individual Wasteload Allocations for MS4s

- In prior discussions with you and staff our understanding is that MS4 permits (the upcoming issuance) will include individual WLAs consistent with the TMDL (or sufficient information – 2009 progress loads and percent reduction requirements - that would enable a WLA to be calculated). **Please confirm this.**

"Permit conditions requiring nutrient and sediment reductions consistent with the WIP using 2009 Progress loads as a baseline."

\*\*\*\*\*

From: Corbin.Jeffrey@epamail.epa.gov [mailto:Corbin.Jeffrey@epamail.epa.gov ]  
Sent: Monday, December 13, 2010 12:36 PM  
To: Corbin.Jeffrey@epamail.epa.gov  
Cc: Moore, Anthony (GOV); Johnson, David (DCR); Paylor, David (DEQ)  
Subject: Re: Important - VA Confirmation Needed on Possible EPA TMDL Actions

Anthony - Any chance we'll be able to get your position on these issues today? We are briefing the Administrator tomorrow and some clarity would be greatly helpful. I am slammed with meetings today but can make time to talk if needed. End of the day after 5:30 works too.

Thanks...jc

Jeff Corbin  
Senior Advisor to the Regional Administrator  
U.S. EPA  
(215)667-9304

\*\*\*\*\*

From: Jeffrey Corbin/R3/USEPA/US  
To: "Moore, Anthony (GOV)" <Anthony.Moore@governor.virginia.gov>  
Cc: "Paylor, David (DEQ)" <David.Paylor@deq.virginia.gov>, "Johnson, David (DCR)" <David.Johnson@dcr.virginia.gov>  
Date: 12/10/2010 04:49 PM  
Subject: Important - VA Confirmation Needed on Possible EPA TMDL Actions

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Anthony - As EPA completes our review of jurisdictions' WIPs and finalizes the Bay TMDL, I have a few issues that I would like to share with you - Confidentially (but only as confidentially as email will allow) - and if possible confirm your position via email. A few of these issues are generic to all the jurisdictions and a few are specific to VA. These issues are included in the attachment with specific requests for confirmation highlighted in bold. I'd be happy to talk through them if you'd like.

Thanks...jc

Jeff Corbin  
Senior Advisor to the Regional Administrator  
U.S. EPA  
(215)667-9304

\*\*\*\*\*

To: Kelly Shenk/CBP/USEPA/US@EPA, Jennifer Molloy/DC/USEPA/US@EPA, Ann Carkhuff/R3/USEPA/US@EPA, Katherine Antos/CBP/USEPA/US@EPA  
From: Jeffrey Corbin/R3/USEPA/US  
Date: 12/09/2010 04:47PM  
Subject: VA WIP/TMDL Clarification Feedback

DCR (Russ Perkinson and Jack Frye) called me back in response to my clarification email I sent them earlier today.

For both ag and SW we have accurately described their positions (see below).

However, they may not include the actual WLA # for a county in the MS4 permit (and I'm not certain if we expected them to do that)...but they would include the reduction percentages from the WIP, including the tables that show examples of how such reductions could be achieved, plus the current 2009 loading #s.

They also had a question that I told them I would check on : What if a segment-shed has 3 MS4s within it - would EPA assign a allocation for the segment-shed that VA would be responsible for dividing among the 3 MS4s or would we assign individual WLAs to each of the 3 MS4s? VA would prefer the later. If someone could answer this question I will pass on to them.

Thanks...jc

Jeff Corbin  
Senior Advisor to the Regional Administrator  
U.S. EPA  
(215)667-9304

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From:  
Jeffrey Corbin/R3/USEPA/US

To:  
'Russ Perkinson' <rperkinson@dcr.virginia.gov>

Cc:  
Jack.Frye@dcr.virginia.gov

Date:  
12/09/2010 01:27 PM

Subject:  
Urgent - WIP Clarification Needed

Russ and Jack - We are deep into our WIP evaluations and compiling TMDL adjustment options...I need quick clarification on 2 points:

Ag -  
EPA's proposed backstop for VA to address reasonable assurance is to transfer all AFO LA to WLA and require 100% implementation of production area practices (including mortality composting that is not currently at 100%). I am told that this is not really an EPA "backstop" since VA has already said that this is your preferred approach. I am told that DCR instructed Jeff Sweeney to put all of regulated AFO in WLA (state and federal). I am also told that you ran this by DEQ and they approved. We need to confirm that moving AFO LA to WLA is what you intended in your WIP.

SW -  
Per discussions with DCR and as outlined in Virginia's WIP, DCR is opting to include numeric wasteload allocations or logical numeric interpretation of those WLAs, including enforceable



numbers equivalent to L2, in MS4 permits rather than specific requirements such as retrofit targets. As stipulated in the WIP, this framework will be implemented over the three permit terms between now and 2025. DCR is currently reissuing all Phase I MS4 permits. Therefore this framework needs to be developed and included in these permits right away. EPA is happy to work with DCR to set up this framework. The draft TMDL includes MS4 allocations by county and stream segment.

The Fairfax County permit is currently under review. EPA has recently returned comments to DCR, including specified requirements to more clearly articulate TMDL requirements. This permit could be the first one to include the new requirements to be consistent with the TMDL. Please let me know if this is an accurate understanding of your intended process.

Thanks...jc

Jeff Corbin  
Senior Advisor to the Regional Administrator  
U.S. EPA  
(215)667-9304

.....

From: Jeffrey Corbin/R3/USEPA/US

To: "Pollock, Alan (DEQ)" <Alan.Pollock@deq.virginia.gov>

Cc: "Gilinsky, Ellen (DEQ)" <Ellen.Gilinsky@deq.virginia.gov>, "Baxter, Russ (DEQ)" <Russ.Baxter@deq.virginia.gov>, David McGuigan/R3/USEPA/US@EPA, Ann Carkhuff/R3/USEPA/US@EPA, Brian Trulear/R3/USEPA/US@EPA, Katherine Antos/CBP/USEPA/US@EPA

Date: 12/11/2010 09:43 PM

**Subject: Re: Revised WIP Sections Dealing with CSS Discharges**

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Al - Thanks for working with EPA to come to a mutually agreeable approach. The revisions you have made to the CSO/CSS sections of the WIP will work for the near-term. As your revised WIP language states, "Appropriate action is needed to incorporate these changes in Phase II," additional discussion will be needed in 2011 prior to completion of the Phase II WIP to ensure that DEQ and EPA can come to agreement by 12/2011 on the language of the Watershed General



Permit dealing with CSOs. If we cannot reach agreement, then it is likely that WLA would have to be reopened during Phase II to ensure that the WLAs are reasonable and compliance is adequately addressed. However, I am confident that we can come to an agreeable approach prior to the end of next year.

Thanks for your help.

jc

Jeff Corbin  
Senior Advisor to the Regional Administrator  
U.S. EPA  
(215)667-9304

\*\*\*\*\*

From: "Pollock, Alan (DEQ)" <Alan.Pollock@deq.virginia.gov>  
To: Jeffrey Corbin/R3/USEPA/US@EPA  
Cc: "Gilinsky, Ellen (DEQ)" <Ellen.Gilinsky@deq.virginia.gov>, "Baxter, Russ (DEQ)" <Russ.Baxter@deq.virginia.gov>  
Date: 12/07/2010 11:07 AM  
Subject: Revised WIP Sections Dealing with CSS Discharges

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Jeff,  
Attached are redrafts of Sections 3 and 4 of the November 29 VA-WIP to address CSS loads issues and to respond to the approach that we have recently discussed with EPA. What we tried to do with the redraft is the following:

1. Simplify and clarify the sections dealing with the CSS loads.
2. Describe how the proposed WLAs for the CSS communities were derived.
3. Regarding implementation, simply acknowledge that the WLAs will be implemented through the VPDES permit program.

I believe this is responsive to the approach we have recently suggested. Our expectation is that in response to these WIP revisions, EPA is willing to state that the final TMDL will not contain language that would conflict with this suggested implementation approach, i.e., that the parties will work out implementation through the VPDES permit program.

Please let me know if you have any questions, or would like to discuss this issue further.

Thanks,  
alan

Alan E. Pollock  
Office of Water Quality Programs  
VA-DEQ  
Phone: 804-698-4002  
Email: [alan.pollock@deq.virginia.gov](mailto:alan.pollock@deq.virginia.gov)

## **EPA-WEST VIRGINIA COMMUNICATIONS**

From: "Montali, David A" <David.A.Montali@wv.gov>  
To: Robert Wood/DC/USEPA/US@EPA  
Cc: "Koon, Teresa M" <Teresa.M.Koon@wv.gov>, "Mandirola, Scott G" <Scott.G.Mandirola@wv.gov>, <btabb@ag.state.wv.us>, "Hannah, Steve" <shannah@ag.state.wv.us>, "Matt Monroe" <mmonroe@ag.state.wv.us>  
Date: 12/14/2010 04:41 PM  
Subject: **RE: Summary of Our Call Today on WV WIP Review**

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Rob,

Thanks for the preview of EPA's WV WIP review.

After yesterday's call, we understood that the effect of the LA to WLA AFO shift was to signal EPA's future intent to designate additional CAFOs (and/or MS4s) if WIP implementation is not fully accomplished and, further, that it does not involve additional AFO BMPs and associated pollutant reductions over and above the level of effort portrayed in our final scenario and our WIP. This is described in your summary in the 3<sup>rd</sup> and 5th paragraphs under " LA to WLA Shifts for AFOs and Urban Stormwater". But the 4th paragraph appears to contradict this. Please clarify.

WV does not wish to take ownership of the shifts. Characterization by EPA as "minor backstops" is ok. The most important point is that WV will be initially afforded an opportunity to implement the TMDL as we prescribed in the WIP and that the backstops would only have impacts if sufficient progress is not achieved.

We agree that the Potomac P and sediment surpluses should be retained in the Potomac for now. But our true preference would be to transfer a portion of this surplus to the James watershed as necessary to cover gaps (as described on pages 13 and 14 of the WIP). If EPA will not allow transfer now, this will be an action item for us in Phase 2. We will coordinate with EPA and VA as necessary to ensure that the transfer won't jeopardize attainment of criteria in James River and transfer the amount needed after consideration of the positive impacts that would result from implementing existing WV TMDLs in the James watershed. We would also suggest that EPA not describe James gaps in percentage terms as they are unnecessarily inflammatory. \ Keep in mind that transfer of approximately half of the 1% P Potomac surplus (3519 #P/yr) would resolve James N & P gaps, as would transfer of less than 25% (6173 tons/yr) of the Potomac sediment surplus.

Your summary correctly indicates our agreement to prescribe James watershed reductions to the

general category of nonpoint sources.

We have shared your email and discussed with the cc'd WVDA representatives who generally concur with our responses.

Thanks again,

Scott and Dave

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-----Original Message-----

From: Wood.Robert@epamail.epa.gov [mailto:Wood.Robert@epamail.epa.gov ]  
Sent: Monday, December 13, 2010 7:41 PM  
To: Mandirola, Scott G; Montali, David A; Koon, Teresa M  
Cc: Hartman, Alana C; Antos.Katherine@epamail.epa.gov;  
Essenthier.Leo@epamail.epa.gov; Capacasa.Jon@epamail.epa.gov;  
Edward.James@epamail.epa.gov; Corbin.Jeffrey@epamail.epa.gov;  
Koroncai.Robert@epamail.epa.gov  
Subject: Summary of Our Call Today on WV WIP Review

Scott, Dave and Teresa,

Thanks for your time today to discuss EPA's review of WV's final Phase I WIP. I want to summarize the outcome of our discussion and invite you to add any points I may have missed, and if you concur with my summary, please respond to say so.

#### LA to WLA Shifts for AFOs and Urban Stormwater

As we discussed, upon review of the WV Phase I WIP, EPA noted many improvements to WV's final Phase I WIP. However, we still have some concerns about WV's reasonable assurance that programs necessary to reduce nonpoint source loadings from the animal feeding operation (AFO) and urban stormwater sectors to the levels envisioned in WV's WIP will be sufficiently implemented. As a result of these concerns, we propose to shift 75% of the animal feeding operation (AFO) loads and 50% of the urban stormwater loads that your WIP currently includes in the load allocation (LA) category over to the wasteload allocation (WLA) category.

As you may recall, in the draft WIP EPA shifted 100% of AFO loads over to the WLA, and 50% of the urban stormwater loads over to the WLA. Due in part to improvements in your WIP, we are proposing to back off the AFO shift to 75%. And unlike the draft TMDL, the shift of 50% of urban stormwater loads to the WLA does not assume that regulated stormwater would reduce loads by assuming more retrofit requirements than what was proposed in the WIP.

These proposed LA to WLA shifts are not an indication that EPA is intends to designate 75% of AFOs or 50% of urban lands as requiring NPDES permits. Rather, this shift signals that EPA is prepared to designate sources where necessary to ensure that nutrient and sediment controls

identified in WV's WIP are implemented. Our hope is that the implementation rates envisioned in WV's WIP through voluntary programs will indeed be implemented on pace with two-year milestones and that relatively few NPDES designations will be necessary by EPA or the State. We are committed to working with WV to make your strategy's work for reducing nutrient and sediment loads to local waters and to the Bay. The LA to WLA shifts are, however a signal that EPA is prepared to make such NPDES designations where necessary to implement the TMDL.

Under this LA to WLA shift, the TMDL would assume AFO practices on the ground that would be consistent with NPDES permit conditions (eg, full treatment train of waste management, barnyard runoff control, and mortality composting). WV already assumes most of these practices at very high implementation rates in their WIPs, and the LA to WLA shift for AFOs is necessary in EPA's view to help ensure these rates are achieved. Also, EPA would assume the same levels of feed management as the state proposed in its WIP.

In summary, EPA is not proposing to require additional NPDES controls on agriculture or urban lands at this time. Unless and until such designations are made, reductions the WIP calls on AFO and unregulated urban stormwater sources to achieve would continue to be managed by the state as unregulated sources.

Based on our call today, I am confident you understand why EPA is proposing these shifts and that these shifts can be described by EPA either as minor backstops of the WV WIP, or if WV wishes to request such shifts through email addendum to the Phase I WIP, EPA would consider these shifts part of the State's WIP and would characterize them as such. Please be aware that other jurisdictions have proposed these shifts themselves as a way to bolster reasonable assurance that urban and agricultural allocations will be achieved and maintained, rather than having EPA make these changes.

Please let me know as soon as possible whether you would prefer for EPA to consider the LA to WLA shifts described here to be minor backstops or, shifts requested by WV through an email addendum to your WIP.

#### Spare Allocation of Phosphorus in the WV Potomac Basin

We also discussed the fact that the WV Phase I WIP results in an approximate 1% spare allocation of P in the Potomac Basin or about 6,300 pounds per year. Based on our discussion, I understand that you would prefer that this spare allocation be held in reserve for the Potomac Basin so that if appropriate WV could propose to allocate this load to another sector or perhaps even another basin (James), in Phase II or after.

Please confirm that this accurately reflects your request.

#### Remaining Nutrient and Sediment Gap in the WV James Basin

Finally, we discussed the fact that the WV Phase I WIP results in TN, TP and TSS loadings in the WV James that exceed WV James allocations by 50%, 18% and 74% respectively. Based on our discussion I understand that you would prefer to assign the additional load reductions to

close these gaps to the general category of nonpoint source. In the TMDL tables, we will do this by proportionally reducing NPS agriculture, septic and urban loads.

Please confirm that this accurately reflects your request.

In closing, thank you again for taking the time to discuss these matters with me today. I am most interested in your prompt response by COB tomorrow (Tuesday) so that EPA may finalize the TMDL allocation tables. Did I accurately characterize your requests for assigning the surplus and gaps? Would you prefer EPA characterize the LA to WLA shifts for AFOs and unregulated urban stormwater as minor backstops or as an addendum to WV's WIP?

Sincerely,

Rob Wood

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Acting Deputy Director  
Chesapeake Bay Program Office  
410-267-5702

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Annapolis, Maryland 21403  
wood.robert@epa.gov